IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

WP(C).No. 21435 of 2007(B)

PETITIONER:

THOMAS LUKE, S/O T.O.LUKOSE,
T.C.16/453-3, THEKKETHAYIL, KOCHAR ROAD,
JAGATHY, THIRUVANANTHAPURAM-14.

BY ADV. SRI.ABRAHAM VAKKANAL
SRI.PAUL ABRAHAM VAKKANAL
SRI.BIJIMON C.CHERIAN
SRI.ARUL KUMAR.P
SRI.LOWEL CHERIAN

RESPONDENT:

THE REGISTRAR OF FRIMS,
OFFICE OF THE INSPECTOR GENERAL OF REGISTRATION,
THIRUVANANTHAPURAM, KERALA.

BY GOVERNMENT PLEADER SRI. M.R. SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.21435/2007 B

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REGISTRATION CERTIFICATE DTD. 02/03/1987.

EXT.P2: COPY OF THE PARTNERSHIP DEED DTD. 07/03/2007.

EXT.P3: COPY OF THE APPLICATION DTD. 07/03/2007.

EXT.P3(A): COPY OF THE CHALLAN DTD. 15/03/2007.

EXT.P4: COPY OF THE REJECTION ORDER DTD. 12/04/2007.

/TRUE COPY/

P.S.TO JUDGE

KSS

ANTONY DOMINIC, J.

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W.P.(C) No. 21435 OF 2007 B

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Dated this the 12th December, 2007

J U D G M E N T

Petitioner who was running a proprietary concern engaged in the business of travel agency has formed a partnership firm and Ext. P2 is the partnership deed. It is stated that Ext. P3 is the application submitted by the petitioner before the respondent for registration of the said firm under the provisions of the Partnership Act. However, the application submitted on 7.3.2007 has been rejected by the respondent by Ext. P4 requiring him to rectify the defects and resubmit the same for registration. It is challenging Ext. P4 this writ petition has been filed.

2. Two defects have been noted in Ext. P4. The first defect is that the word 'International' is not permissible as the name of firm as per the Emblems and Names Prevention of Improper Use Act, 1950. and the Indian Partnership Act, 1932. This presumably is for the reason that the name of the firm mentioned in the deed of

partnership is International Travels. As far as the emblem and names under the aforesaid Act is concerned, Section 3 thereof provides for the prohibition of improper use of names. Section 3 itself enumerates the names which are prohibited from the use and there does not contain anything to suggest that the word “international” is impermissible in that name. Similar is the case with Partnership Act also. Section 58(3) which alone is relevant for this purpose, provides that a firm name shall not contain any of the words mentioned therein. This again does not contain the word 'International'. For that reason as well, the first defect that is noticed by the respondent is unsustainable.

3. The second defect noted is different names/different dates of joining are not permissible. This apparently is a defect that is noted in the deed of partnership itself and the counsel for the petitioner submits that this defect has since been cured.

4. In view of the above, I hold that the first defect noted by the respondent in Ext. P4 is unsustainable and that the petitioner has cured the second defect that is mentioned in Ext. P4. It is clarified that curing the second defect as above it will be open to the petitioner to resubmit the application for registration of the firm

constituted by Ext. P2 deed of partnership, in which event the respondent shall consider the same and pass appropriate orders of registration of the said firm.

5. This the respondent shall do as expeditiously as possible. It is directed that the petitioner shall submit the application within two weeks from today in which event the respondent shall pass orders of registration within four weeks thereafter.

Writ petition is disposed of as above.

ANTONY DOMINIC
JUDGE

jan/-